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In re Application of	:	
Nickolaos Robakis et al.	:	
Application No. 10/509,170	:	DECISION ON PETITION
Filed: May 19, 2005	:	PURSUANT TO
Attorney Docket No. 58236US	:	37 C.F.R. § 1.181(A)
Title: PEPTIDES DERIVED FROM	:	
CADHERIN AND METHODS OF USE	:	
THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R.
§ 1.181(a) to withdraw the holding of abandonment, filed on
October 17, 2008.

BACKGROUND

The above-identified application became abandoned for failure to
reply in a timely manner to the non-final Office action, mailed
March 6, 2008, which set a shortened statutory period for reply
of three months. No response was received, and no extensions of
time under the provisions of 37 C.F.R. § 1.136(a) were
requested. Accordingly, the above-identified application became
abandoned on June 7, 2008. A notice of abandonment was mailed
on September 15, 2008.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has alleged that a response was timely filed on September 8, 2008.¹ Petitioner has further included a copy of this response (an amendment and a petition for a three-month extension of time), and it is noted that it contains a certificate of mailing dated September 8, 2008. Petitioner has also included a statement that attests on a personal knowledge basis to the previous timely mailing.

The electronic file has been reviewed, and a copy of this response has been located in the same. Moreover, Office records reflect the receipt of the fee that is associated with the filing of a petition for a three-month extension of time on September 11, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

¹ It is noted that September 6, 2008 fell on a Saturday.

change of status must be effected - the Office of Petitions cannot effectuate a change of status.

Technology Center 1600 will be made aware of this decision, so that amendment that was received on September 11, 2008 can be considered in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.² All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).